

1 HONORABLE LAUREN KING
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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 WASHINGTON ELECTION INTEGRITY) Case No. 2:21-cv-1354-RAJ
10 COALTION UNITED, a Washington)
11 State Nonprofit Corporation; ARTHUR) DECLARATION OF TAMBORINE
12 CODAY, JR.; THOMAS J. PRETTYMAN;) BORRELLI IN SUPPORT OF
13 DIANE DEJONG; RITA BEITZ; DIANA) PLAINTIFF WASHINGTON
14 BARKER; ROY FULLER; MARY LOU) ELECTION INTEGRITY
15 BURNS; BOB KALDOR; JANE MACLIN;) COALITION UNITED'S
16 JAMES MACLIN; RANDY TENDERING;) OPPOSITION TO SNOHOMISH
17 JOHN BEITZ; MELISSA ELLER;) COUNTY DEFENDANTS'
18 SUSAN MISCHEL; LISA CUMMINGS;) FRCP 56 MOTION TO
19 AMBER FITHIAN; JAMIE RENNINGER;) DISMISS
20 DIANE MACKAY; JEREMY JOHNSON;)
21 ANDREW MARRONE; KATIE PERASSO;) NOTED ON CALENDAR:
22 CARL WEDEKIND; ANNETTE) JANUARY 14, 2022
23 BLANDINO; LUKE DETERMAN;)
24 TERRY O'CONNELL; WILLIAM COOK;)
25 JOSHUA A. DEJONG; KATIE)
26 SHEFFIELD; KAROL JONES; JAMES)
27 MISCHEL; GREG BURTON; BRENDA)
28 JEAN SMITH; BRENDON WILLIAM)
RUPPEL; KRISTY WELLES; LONNY)
BARTHOLOMEW; RUSSELL OSTLUND,)
Plaintiffs,)
v.)
GARTH FELL, Snohomish County)
Auditor; SNOHOMISH COUNTY, and)
DOES 1-30, inclusive,)
Defendants)

DECLARATION OF TAMBORINE BORRELLI
IN SUPPORT OF PLAINTIFF WEICU'S OPPOSITION
TO FRCP 56 MOTION TO DISMISS

1 I, Tamborine Borrelli, do hereby declare:

2 1. I am the Director of Plaintiff Washington Election Integrity Coalition United
3 ("WEiCU") in this matter and am fully familiar with all facts declared herein.
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5 2. Attached hereto is a true and correct copy of an email received from Snohomish
6 County Public Records on December 8, 2021 responding to WEiCU's Public Records Request
7 for original ballots, ballot images, spoiled ballots, adjudication records, ballot envelopes, and
8 returned ballots for the November 2020 election.

9 I declare under penalty of perjury that the foregoing is true and correct.
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11 Dated: January 7, 2022

12 DocuSigned by:
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14 Tamborine Borrelli, Director
15 WASHINGTON ELECTION INTEGRITY
16 COALITION UNITED
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DECLARATION OF TAMBORINE BORRELLI
IN SUPPORT OF PLAINTIFF WEICU'S OPPOSITION
TO FRCP 56 MOTION TO DISMISS

EXHIBIT A

Public Records Request :: K058675-102821

From: Snohomish County Public Records <snohomishcowa@govqa.us>
To: Washington Election Integrity Coalition United <weicu@protonmail.com>
CC: WEiCUattorney <weicuattorney@protonmail.com>
Date: Wednesday, December 8th, 2021 at 10:36 AM

Attachments:

[Canvass_Board_Informational_Report_November_2020_Final.pdf](#)

--- Please respond above this line ---



Dear Washington Election Integrity Coalition United,

This communication is an update to your public records request, tracking number K058675-102821.

Washington law prohibits the disclosure of ballots returned to the County as part of an election—regardless of whether the ballot has been tabulated. Accordingly, the portion of your public records request that seeks “original ballots, ballot images … spoiled ballots … and returned ballots” is denied.

Washington constitutional provisions, laws, and regulations are incorporated into the Public Records Act pursuant to RCW 42.56.070(1). Washington Const., article VI, Section 6, provides:

All elections shall be by ballot. The legislature shall provide for such method of voting as will secure to every elector absolute secrecy in preparing and depositing his ballot.

RCW 29A.60.110 provides:

Immediately after their tabulation, all ballots counted at a ballot counting center must be sealed in containers that identify the primary or election and be retained for at least sixty days or according to federal law, whichever is longer. In the presence of major party observers who are available, ballots may be removed from the sealed containers at the elections department and consolidated into one sealed container for storage purposes. The containers may only be opened by the canvassing board as part of the canvass, to conduct recounts, to conduct a random check under RCW 29A.60.170, to conduct an audit under RCW 29A.60.185, or by order of the superior court in a contest or election dispute.

WAC 434-261-045, authorized by RCW 29A.04.611, further provides:

Secure storage must employ the use of numbered seals and logs, or other security measures, that document each individual's access to the voted ballots or voted ballot images, and detect inappropriate access to the secure storage. Voted ballots and voted electronic ballot images must remain in secure storage except during processing, duplication, resolution, inspection by the canvassing board, or tabulation...Voted ballots and voted

ballot images may only be accessed in accordance with RCW 29A.60.110 and 29A.60.125.

Collectively, these provisions exempt ballots and ballot images from disclosure under the PRA. Furthermore, Washington courts have consistently held that ballots and ballot images are exempt from production under the PRA. See *White v. Clark County*, 188 Wn. App. 622, 354 P.3d 38 (2015) (pre-tabulated ballots are exempt from disclosure under the PRA); *White v. Skagit County*, 188 Wn. App. 886, 355 P.3d 1178 (2015) (same); *White v. Clark County*, 199 Wn. App. 929, 401 P.3d 375 (2017) ("We hold that RCW 29A.60.110 constitutes an express 'other statute' exemption for tabulated ballots.") Accordingly, Snohomish County is denying the portion of your request that seeks ballots and ballot images.

Despite the unavailability of ballots and ballot images, following each election, the Auditor's Office publishes reports detailing voter participation and returned ballot statistics. The November 3, 2020, election report is attached to this letter for your convenience. It is also available online at: https://www.snohomishcountywa.gov/DocumentCenter/View/77866/Canvass-Board-Informational-Report_November-2020_Final.

On November 8, the County reiterated its request for clarification regarding your request. Specifically, the following items are still at issue:

1. Whether your request for returned ballot envelopes seeks both sides of the returned ballot envelope or only the signature side of the returned ballot envelope.
2. The manner by which you desire to have "adjudication records" produced. Snohomish County has an estimated 2,000 paper adjudication records from the November 3, 2020 General Election. If you would like to receive electronic copies, we do require a 10% deposit of the estimated production cost of \$200.00. A \$20.00 deposit must be received in advance of the records being processed for release. If you decide to request electronic records, check or money order is an acceptable form of payment. Please mail the exact deposit to:

Snohomish County (PRO)
3000 Rockefeller Avenue M/S 407
Everett, WA 98201

Please provide clarification and/or deposit by December 15, 2021, so that we may continue to timely process the remainder of your request.

Renee Green, MPA | Public Disclosure Administrative Specialist
Snohomish County – Public Records Office
3000 Rockefeller Avenue | Everett, WA 98201
Phone: 425.262.2270 | Email: renee.green@snoco.org

NOTICE: All emails, and attachments, sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (Chapter 42.56 RCW).

Renee Green

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To monitor the progress or update your request click here: [Public Records Request Portal](#)